

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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TOM G. PALMER, <i>et al.</i>)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 09-01482 (FJS)
)	
DISTRICT OF COLUMBIA, <i>et al.</i> ,)	
)	
Defendants.)	
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DEFENDANTS’ NOTICE OF SUPPLEMENTAL AUTHORITY

Defendants the District of Columbia and Chief Cathy Lanier (collectively “the District”), by and through undersigned counsel, respectfully submit this Notice of Supplemental Authority.

On Friday, February 3, 2012, the United States District Court for the Central District of Illinois issued a decision in *Moore v. Madigan*, ___ F.Supp.2d ___, 2012 WL 344760 (C.D. Ill. Feb. 3, 2012) (copy attached), upholding against Second Amendment challenge Illinois statutes which prohibit the carrying of loaded and operable firearms in public. In its decision, the court analyzed a number of decisions cited by the parties in the instant matter, in concluding that “neither the United States Supreme Court nor any United States Court of Appeals has recognized [a right to carry operable guns in public].” *Id.* at *5.

Even assuming, said the court, that the Illinois statutes interfere with some right to bear arms outside the home, they survive constitutional scrutiny. *Id.* at *11. The court noted that the level of scrutiny to be applied “will depend on how close the law comes to the core of the Second Amendment right and the severity of the law’s burden on the right.” *Id.* at *12 (quoting *Ezell v. City of Chicago*, 651 F.3d 684, 703 (7th Cir. 2011)). The *Moore* court applied “intermediate scrutiny” because the right to bear arms outside the home “is not a core Second

Amendment right as defined by [*District of Columbia v. Heller*, 554 U.S. 570 (2008)].” *Moore, supra*, at *11–*12. The court noted that “a majority of courts considering Second Amendment challenges since the *Heller* decision have applied intermediate scrutiny.” *Moore, supra*, at *13 (citing cases).

The court held that public safety is a valid governmental interest, and that the challenged statutes are “substantially related” to that interest: “One may reasonably conclude that prohibiting the possession of loaded, uncased, and immediately accessible firearms in public will make it more difficult for individuals to discharge firearms in public and will thereby diminish the public’s risk of injuries and death by gunfire.” *Id.* at *14 (citing, *inter alia*, *United States v. Skoien*, 614 F.3d 638, 641–42 (7th Cir. 2010) (*en banc*)).

DATE: February 6, 2012

Respectfully submitted,

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